IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

WP(C).No. 11625 of 2007(H)

CMA.5/2006 of SUB COURT, TIRUR
OS.50/2006 of MUNSIFF COURT, TIRUR
(IA.315/06)
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PETITIONER:

PATHUMMA, W/O.AHMEDKUTTY, AGED 57 YEARS,
KAYYIL MADATHIL HOUSE, ANANDAVOOR, KONNALUR,
TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.K.RAMACHANDRAN
SRI.A.R.DIVYA

RESPONDENTS:
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1. THE GOVERNMENT OF KERALA, REPRESENTED BY
DISTRICT COLLECTOR, MALAPPURAM.

2. THEKKAYPEEDIAKAL ABDUL SUBAIYAR,
S/O.MOHAMMED, NEDUVATTOM AMSOM DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.

BY GOVERNMENT PLEADER, SRI.SHYSON.P.MANGUZHA (FOR R1)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE I.A. NO.315 OF 2006 FILED ON 7.2.2006.

EXT. P2: COPY OF THE 1ST RESPONDENT'S COUNTER DATED 25.2.2006.

EXT. P3: COPY OF THE ORDER IN I.A. NO.315 OF 2006.

EXT. P4: COPY OF THE JUDGMENT IN C.M.A. NO.5 OF 2006.

/TRUE COPY/

P.A. TO JUDGE

JP

M.N. KRISHNAN, J.

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W.P.C. NO. 11625 OF 2007

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Dated this the 29th day of October, 2007.

J U D G M E N T

This writ petition is filed challenging the order of the Subordinate Judge, Tirur in CMA 5/06 and also the order in I.A.315/06 in O.S.50/06. The suit relates to a right of way. The right of way is claimed through the Government school compound. It is submitted that as per the direction of this Court the Government Pleader ascertained and reported that a wall has been constructed and filled, up to the eastern end which means that the pathway has been blocked. The appellate Court's observation would reveal that there has been a way but the appellate court non-suited the plaintiff on the ground that there is no prima facie evidence to show that the user has been using it for more than 30 years as is required to acquire easement right over the said property. As already the way has been blocked I feel the only direction that can be given now is to direct the trial court to dispose of the matter as expeditiously as possible untramelled by the

observations contained in the judgment in CMA as well as its own order. I direct the Court below to expedite the trial and dispose of the matter within a period of six months from today.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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